IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.20905 of 2001

Between:

S.Kubera Chary S/o.Late Shekara Chary
R/o.Q.No.70, Type II, E Block, CISF, NISA,
Hakimpet, Secunderabad.

..... PETITIONER

AND

1 The Commandant, CISF Unit,
Hakimpet, Secunderabad.
2 The Govt.of India, Rep.by its Director General,
CISF Headquarters, 13, C.G.O.S.Complex,
Lodhi Road, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or order directing the Respondents to place the petitioner name in the Seniority List of Head Constables in the year 1986 along with my batchmates/juniors and further direct the respondents to pay all consequential increments, benefits, etc., including the arrears, difference in pay, etc.

Counsel for the Petitioner: M/sH.SRINIVASA RAO&VIJAYALAKSHMI

Counsel for the Respondents: Mr. S.S.VARMA

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to direct the respondents to place the petitioner's name in the seniority list of Head Constables in the year 1986 along with his batchmates/juniors and further direct the respondents to pay all consequential benefits to him.

It is the case of the petitioner that he was recruited as a Constable/Security Guard in the year 1972. He had received four awards. However, while he was working with the Assistant Commandant, CISF Unit, MPT, Madras-1, he was charge sheeted for certain indiscipline and dereliction of duty and after conducting an enquiry into the matter, on 16-4-1984 the Assistant Commandant passed an order imposing a punishment of postponement of increments for a period of two years without cumulative effect. Therefore, his case was not considered for promotion, though DPC was constituted. Thereafter, there was no stigma for not selecting and promoting him to the post of Head Constable after 1986. However, his promotion to the post of Head Constable was continuously denied right from 1987 till 1996. But, with effect from 1-5-1996 he was promoted as Head Constable and is working as such. Now, the contention of the learned counsel for the petitioner is that the denial of promotion of the petitioner to the post of Head Constable right from 1986 till 1996 is arbitrary and illegal. Therefore, it must be declared that the petitioner is entitled for

being promoted to the post of Head Constable in the year 1986 itself and his seniority should be counted in the cadre of Head Constable right from the date of which his batchmates were promoted to the post of Head Constable i.e. 1986.

A detailed counter affidavit has been filed by the 1st respondent denying the allegations made by the petitioner. In the counter, it is asserted that till 1986, the question of considering his case did not arise, since he was undergoing treatment. Even though he had undergone two punishments of Censure, the DPC had met in the years 1986, 1987, 1989 and 1990 found the petitioner to be unfit for being promoted to the post of Naik. However, he was promoted to the rank of Naik with efrfect from 15-5-1991. The petitioner's case for promotion to the post of Head Constable was considered in the year 1993 and found to be not fit. However, the petitioner was finally promoted during the DPC held in 1994.

Learned counsel for the respondents contended that the petitioner having not challenged the various denials of his promotion right from 1986 to 1996, it does not lie in his mouth to seek seniority in the cadre of Head Constable on par with his batchmates, who were promoted to the post of Head Constable in the year 1986. The counter speaks for itself. Admittedly, the petitioner suffers three punishments, one is stoppage of increment and the other two are censures and that is the reason why he was not selected by duly constituted DPC held during 1986, 1987, 1988, 1989, 1990 and 1993 also. Admittedly, the petitioner has not challenged any of these proceedings before any Court of law. Therefore, I am of the considered opinion that the petitioner is not entitled to reckon his seniority on par with his batchmates, who were promoted to the post of Head Constable in the cadre of Head Constable. The writ petition is speculative and imaginary in nature and does not call for interference at the hands of this Court.

Accordingly, the writ petition is dismissed. No order as to costs.

01-3-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commandant, CISF Unit,
Hakimpet, Secunderabad.
2 The Director General, Government of India,
CISF Headquarters, 13, C.G.O.S.Complex,
Lodhi Road, New Delhi.

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